

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
MEDFORD DIVISION

RANDY KESSLER; BRENDA KESSER,

1:13-cv-02302-CL

Plaintiffs,

v.

ORDER

OREGON DEPARTMENT OF CHILD
WELFARE; JOSH MILLER; JANICE
VASQUEZ; BECKY FOSTER; JENNIFER
NYE; REBECCA OLSON; LISA GREIF;
JUDITH BARR; MICHAEL O'CONNELL;
GRETA LILLY; MICK SMITH,

Defendants.

PANNER, District Judge:

On February 3, Defendant Barr filed a motion to dismiss this action for lack of jurisdiction (#13). Magistrate Judge Mark D. Clarke filed a Findings and Recommendation (#21), and the matter is now before this Court. See 28 U.S.C. § 636(b)(1)(B), Fed. R.

Civ. P. 72(b). Plaintiffs filed objections and I have reviewed the file of this case *de novo*. 28 U.S.C. § 636(b)(1)(C); McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc., 656 F.2d 1309, 1313 (9th Cir. 1981).

I have given this matter *de novo* review. In their Objections to the F&R (#29), Plaintiffs contend that this Court has jurisdiction because this is not an action for child custody. On February 12, however, Plaintiffs filed a motion seeking to have the state court's guardianship determination overturned and the children returned to the custody of Plaintiffs (#31). Plainly, this is a child custody matter and, as Judge Clarke determined, this Court lacks jurisdiction.

Accordingly, Defendant Barr's Motion to Dismiss (#13) is GRANTED. As no amendment can cure the deficiencies in the Amended Complaint, this matter is DISMISSED with prejudice. All other pending motions (##20, 24, 31) are DENIED as moot.

IT IS SO ORDERED.

DATED this 27 day of February, 2014.



OWEN M. PANNER
U.S. DISTRICT JUDGE